

REMARKS

Claims 1-12 are all the claims pending in the application. Claims 1 and 5 have been amended. Claim 13 has been cancelled and the feature of the invention previously recited therein has been incorporated into Claim 1. Claim 5 has been amended to be in independent form by incorporating the text of Claim 1. No new matter has been added. Accordingly, entry of the present Amendment is requested.

Claims 1-4, 9 and 10 have been rejected under 35 U.S.C. § 102(a) as being anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as obvious over “Applicant’s Disclosure.”

Claim 11 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over “Applicant’s Disclosure” in view of U.S. Patent No. 5,061,275 to Wallsten et al.

Claim 11 has also been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.K. Patent No. 2,135,585 to Wallsten in view of Wallsten et al. ‘275.

As mentioned above, Claim 13 which was not included in any of these rejections, has been cancelled and the feature of the invention recited therein has been incorporated into Claim 1. Accordingly, Applicant submits that these rejections have been overcome and their withdrawal is requested.

Referring to pages 3 and 4 of the Office Action, Claims 1-4, 9, 10 and 13 have been rejected under 35 U.S.C. § 102(b) as anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as obvious over Wallsten ‘585.

In this regard, Wallsten ‘585 is relied upon to assertedly disclose first and second sets of mutually counter rotating metallic filaments in which some or all of the filaments are fixed

together in pairs. The Examiner refers to page 8 of the reference, lines 13-23, and, in particular, page 5, lines 24-32, in support of these assertions.

With regard to the feature of the invention recited in now cancelled Claim 13, Wallsten '285 is further relied upon to assertedly teach that filament ends may be fixed together in pairs "by placing the filaments adjacent to and substantially parallel to one another (since each pair of filament ends are attached to a U-shaped member and since the sides of a U are substantially parallel to one another" The Examiner alternatively concludes that "it would have been obvious that the filaments are substantially parallel to one another since the side of a U are substantially parallel to one another."

Applicant traverses this rejection for the following reasons.

Wallsten '585 discloses a prosthesis that can be applied within a blood vessel. The prosthesis is a flexible tubular body which has a diameter that is variable by axial movement of the ends of the body relative to each other and which is composed of thread elements which extend helically with the center line of the body as a common axis. Thread elements having a first direction of winding but being axially displaced relative to each other cross thread elements also axially displaced relative to each other but having a second opposite direction of winding. The flexible thread elements are elastically deformable between a first, smaller diameter-longer length, configuration and a second, larger diameter-shorter length, configuration and are resiliently biased towards the second configuration in which the axially directed angle between crossing thread elements is obtuse. See, the paragraph bridging pages 2 and 3 of Wallsten '285.

The Examiner relies upon the portion of Wallsten '285 at page 5, lines 20-32, in particular, lines 24-32, to assertedly teach pairs of filament ends arranged as two substantially straight, coplanar lines that are joined at their ends. This passage is reproduced below for convenience:

The free ends of the thread elements of the tubular body can be modified or protected in several ways. The alternative in which no free ends at all are present is the alternative to make the tubular body as a whole of one coherent element. The alternative which is most closely related to that is the case where the free ends of a body resulting from severing a long string are connected with U-shaped members which are attached to the ends of the elements pair-wise in a suitable manner, for example heat welding, gluing or the like. In this manner elements of the same direction of winding or elements of the opposite direction of winding can be attached to each other two and two.

Applicant submits, however, that this does not teach or suggest to one skilled in the art the present claimed invention, as defined in amended Claim 1. The present claimed invention recites "wherein each pair of filament ends is arranged as two substantially straight, coplanar lines that are joined at their ends." There is no teaching or suggestion in Wallsten '285 of pairs of filament ends arranged as two substantially straight, much less coplanar lines joined at their ends. In particular, the portion of Wallsten relied upon by the Examiner and quoted above is unclear as to the details of how the free ends are connected with the "U-shaped members", and there is no further description in the reference relating to the above quoted embodiment. Significantly, it does not appear to be shown in the figures. Accordingly, the reference does not put one skilled in the art in possession of the claimed invention and therefore withdrawal of this rejection is requested.

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Appln. No. 10/031,064
Amendment Under 37 C.F.R. § 1.111
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Additionally, referring to page 5 of the Office Action, Claims 5-8 and 12 have been objected to as being allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

While not admitting that any of the previous rejections are appropriate, as indicated above, Applicant has amended Claim 5 to rewrite it in independent form. Accordingly, Claims 5-8 and 12 should now be indicated as allowed.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

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